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**Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/120,452	07/23/98	YURT	02473.0004

LM02/0305  
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EXAMINER

LEA

ART UNIT	PAPER NUMBER
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2734

DATE MAILED: 03/05/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

09/120,452

# Office Action Summary

Application No.

09/120,452

Applicant(s)

Paul Yurt et al

Examiner

Amanda T. Le

Group Art Unit

2734

☒ Responsive to communication(s) filed on 7/23/98

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-9 and 12-20 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-9 and 12-20 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 1

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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1. Claims 1-9, 12-20 are pending in this application.

### ***Double Patenting***

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-9, 12-20 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-9, 12-17, 19-21 respectively of U.S. Patent No. 5,132,992. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claimed limitations that differ from that of the patented are either covered by the patented claims or would have been obvious to one of ordinary skill in the art at the time of the invention to implement based on the teachings of the patented claims.

4. Claims 1 and 18 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 or 14 and 2 or 5 respectively of U.S. Patent No.

5,253,275. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claimed limitations that differ from that of the patented are either covered by the patented claims or would have been obvious to one of ordinary skill in the art at the time of the invention to implement based on the teachings of the patented claims.

5. Claim 1 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 5,550,863. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claimed limitations that differ from that of the patented are either covered by the patented claims or would have been obvious to one of ordinary skill in the art at the time of the invention to implement based on the teachings of the patented claims.

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

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7. Claims 18-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Ballantyne et al.
- Ballantyne et al's distribution method (Fig. 1B) teaches the following claimed steps: "storing audio and video information" (element 32, col. 3, lines 59-61); "requesting transmission" (element 34); "sending at least a portion" (26); "receiving the sent information" (Fig. 2, 36); "buffering the received information" (38, col. 5, line 14); "playing back the buffered information" (col. 5, lines 45-48).

***Conclusion***

8. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

(703) 308-9051, (for formal communications intended for entry)

**Or:**

(703) 308-6743, (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amanda Le, whose telephone number is (703) 305-4769. The Examiner can

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normally be reached on Tuesday-Friday from 8:00 A.M. - 5:30 P.M.. The examiner can also be reached on alternate Monday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Chin, can be reached on (703)305-4714.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-4900.

09/120,452-0299

March 3, 1999



**Amanda T. Le**  
Primary Patent Examiner